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SHL.042

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re Application of**

Satoshi Hoshino

Serial No.: 09/895,173

Group Art Unit: 2621

Filed: July 2, 2001

Examiner: Shefali Patel

For: ELECTRONIC JOURNAL PREPARATION SYSTEM AND ELECTRONIC  
JOURNAL PREPARATION METHODHonorable Commissioner of Patents  
Alexandria, VA 22313-1450  
Box AF**SECOND PETITION UNDER 37 C.F.R. § 1.181**  
**TO ENTER REQUEST FOR CONTINUED EXAMINATION**

Sir:

Applicant respectfully submits that on November 10, 2005 a Petition Under 37 C.F.R. § 1.181 to Enter Request for Continued Examination was filed, requesting that the RCE filed on October 13, 2005 be entered.

On November 16, 2005 Applicant's representative placed telephone calls to the Examiner and the Supervisory Examiner (and left voice messages for each) to discuss the status of the Petition. However, the Examiner and the Supervisory Examiner have not yet responded to Applicant's representative.

Therefore, Applicant herein submits a second petition under 37 C.F.R. § 1.181 to enter the request for continued examination (RCE) filed on October 13, 2005 for the above-referenced Application.

In a Notice Of Improper Request for Continued Examination dated October 27, 2005, Legal Instruments Examiner Butler alleged that the RCE filed on October 13, 2005

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is improper because the request was not accompanied by a submission as required by 37 C.F.R. 1.114. Applicant, however, respectfully disagrees.

That is, on the RCE Transmittal, Applicant checked the box for a previously filed submission. Applicant respectfully submits that two separate previous submissions were filed prior to filing the RCE. Indeed, on August 8, 2005 Applicant filed a Response to the Final Office Action dated May 17, 2005 (copy attached hereto for the Examiner's convenience along with the USPTO Auto-Reply Facsimile Transmission filing receipt). Applicant respectfully submits that this Response constitutes a first previously filed submission.

Furthermore, on August 31, 2005 Applicant filed a Supplemental Amendment (a copy of which is attached hereto along with the USPTO Auto-Reply Facsimile Transmission filing receipt). Applicant respectfully submits that this Supplemental Amendment constitutes a second previously filed submission.

In a telephonic interview with Legal Instruments Examiner Butler, the Examiner indicated that the Supplemental Amendment filed on August 31, 2005 was not considered a Submission because the Supplemental Amendment was non-compliant (the Examiner alleged that the Supplemental Amendment was missing a portion of claim 7).

Applicant respectfully submits that, even if the Supplemental Amendment filed on August 31, 2005 was non-compliant (Applicant's records indicate that a complete listing of claims was filed with the Supplemental Amendment filed on August 31, 2005), the remarks section of the Supplemental Amendment, which includes Applicant's Statement of the Substance of Interview, constitutes a submission as required by 37 C.F.R. 1.114.

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Furthermore, even assuming, *arguendo*, that the Supplemental Amendment filed on August 31, 2005 is not a submission as required by 37 C.F.R. 1.114, the Response filed on August 8, 2005 is clearly a submission as required by 37 C.F.R. 1.114.

Therefore, Applicant respectfully petitions that the Notice of Improper Request for Continued Examination be withdrawn and that the RCE filed on October 13, 2005 be entered.

Furthermore, submitted herewith is a provisional Notice of Appeal, which is being filed to avoid abandonment of the application.

To the extent necessary, Applicant hereby petitions for an extension of time under 37 C.F.R. § 1.136.

Since the Petition Under 37 C.F.R. § 1.181 to Enter Request for Continued Examination, the Petition for Extension of Time and the Notice of Appeal are being filed due to an error on the part of the USPTO and solely to prevent the abandonment of the present case due to the USPTO's error, the fee for the Extension of Time and the Notice of Appeal are not believed to be necessary.

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Please charge any deficiencies and/or credit any overpayments necessary to enter this paper and the Notice of Appeal to Attorney's Deposit Account number 50-0481, and a conditional Petition for Extension of Time is made herein should it be necessary.

Respectfully Submitted,

Date: November 17, 2005



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**FACSIMILE TRANSMISSION**

I hereby certify that I am filing this paper via facsimile, to Group Art Unit 2621, at (571) 273-8300, on November 17, 2005.

Respectfully Submitted,

Date: November 17, 2005



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